

RDMD/Planning and Development Services

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DATE: May 6, 2004

TO: Orange County Zoning Administrator

FROM: RDMD/PDS/Current and Advance Planning Services

SUBJECT: Public Hearing on Planning Application PA04-0020 for Coastal Development Permit, Variance and Use Permit.

PROPOSAL: The applicant requests approval of a Coastal Development Permit to demolish an existing 1,300 square foot single-family dwelling and construct a new two-level over basement, 4,200 square foot single-family dwelling on a 3,890 square foot lot. A Variance is requested to allow front and rear setbacks of 5 feet – 6 inches when a setback of 8 feet is required (shallow building site per Zoning Code Section 7-9-128). A Use Permit is requested to allow retaining walls up to a height of 14 feet (as measured from the final building pad elevation) at the rear of the property in association with site excavation to create a lowered building pad.

LOCATION: The project site is located in the community of Emerald Bay, on the ocean side of Pacific Coast Highway at 11 Emerald Bay, Laguna Beach. Fifth Supervisorial District.

APPLICANT: Tom and Marta Tooma, property owner
Jay Brian Evarts Architect Inc., agent

STAFF William V. Melton, Project Manager

CONTACT: Phone: (714) 834-2541 FAX: (714) 834-3522

SYNOPSIS: PDS/Current and Advance Planning Services recommends Zoning Administrator approval of PA04-0020 for Coastal Development Permit, Variance and Use Permit subject to the attached Findings and Conditions of Approval.

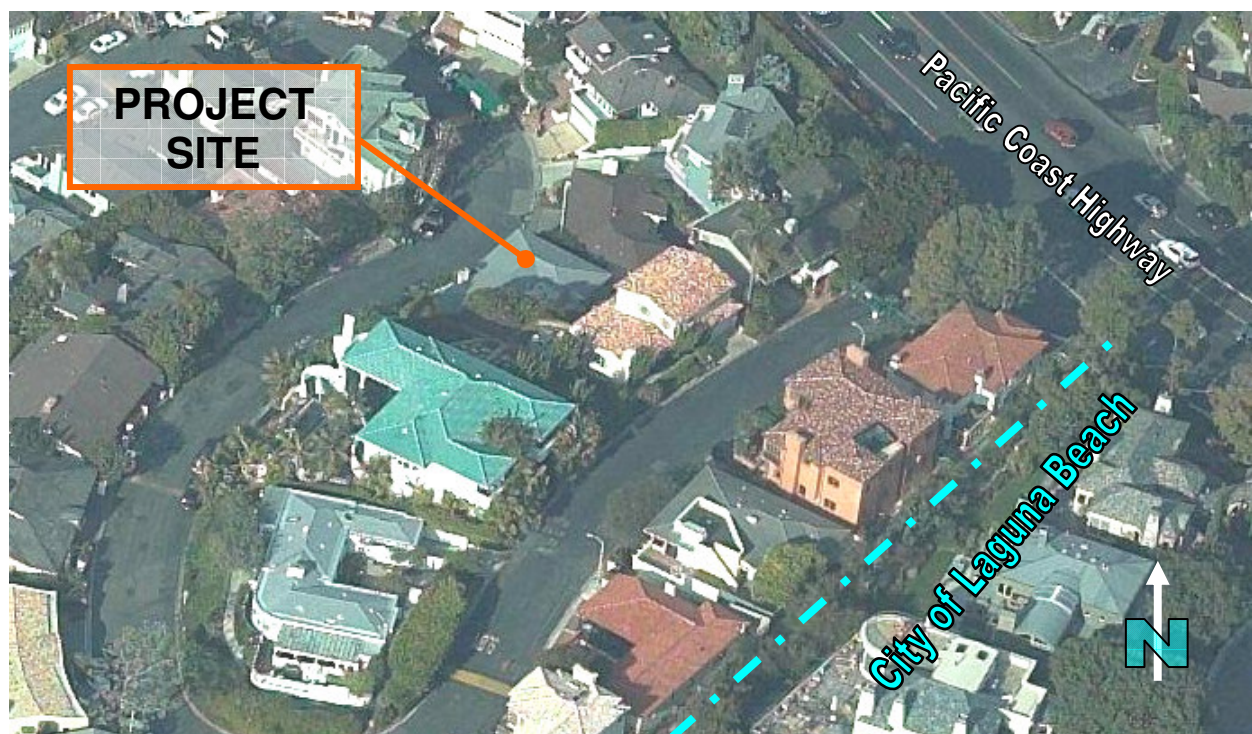
BACKGROUND:

The subject site is approximately 3,890 square feet in area, measuring 70 feet wide by 53 feet deep, which is defined as a shallow building site under Zoning Code section 7-9-128. This lot is part of the original Emerald Bay community recorded as Tract 940 in 1929. The 102 building sites in this tract are generally smaller than subsequent tracts in the balance of community. The subject site is development with a one story over basement single-family dwelling originally constructed, according to County records, in the late 1940s. The applicant proposes to demolish the existing structure and construct a new multi-level single-family dwelling with an oversized two-car garage.

The site, as well as all Emerald Bay, is zoned R1 “Single-Family Residence” District with a CD “Coastal Development Permit” District overlay. In addition to the R1 and CD site development standards and requirements, Emerald Bay maintains CC&Rs permitting setbacks of 5 feet from all property lines but has strict height and site coverage standards, which prohibits development of properties that would otherwise be permitted by the R1 site development standards, which is why this CD also requires the approval of a Variance and a Use Permit. Emerald Bay also has a certified Local Coastal Program (LCP). The LCP has a requirement that all properties on the ocean side of Pacific Coast Highway, such as this property, are also subject to regulations contained in Zoning Code Section 7-9-118 “Coastal Development” District. In general, property owners are required to obtain approval of a Coastal Development prior to demolishing a dwelling or making large additions to an existing residence and/or construction of a new dwelling. Additionally, the properties on the ocean side of PCH are defined as “appealable developments” which are subject to appeal directly to the California Coastal Commission.

SURROUNDING LAND USE:

The project site and all surrounding properties are zoned R1 “Single-family Residence” District with a CD “Coastal Development” District overlay, and developed with (or approved for) single-family dwellings (see photo below).



REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. A Notice of Hearing was also mailed to the “occupant” of homes within 100 feet of the subject site as required by Coastal Development Permit procedures. Additionally, a notice was posted at the site, at the 300 N.

Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to five County Divisions and the Emerald Bay Community Association. As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions. The Emerald Bay Community Association approved the proposal January 3, 2004.

CEQA COMPLIANCE:

Negative Declaration No. PA040020 (Exhibit 3) has been prepared for this proposal. It was posted for public review on April 7, 2004 and became final on April 27, 2004. Prior to project approval, this ND must be found adequate to satisfy the requirements of CEQA by the Zoning Administrator. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

The proposed project is in the Coastal Zone and subject to both the requirements of the R1 District Zoning Code Section 7-9-118 CD “Coastal Development” District. Because the project site is located in an appealable area (appealable to the Coastal Commission), neither the demolition of the existing dwelling nor the construction of the proposed dwelling is exempt from first obtaining approval of a Coastal Development Permit.

As previously noted, the lots in this part of Emerald Bay are generally smaller than other lots in Emerald Bay. In order to achieve a dwelling meeting the requirements of the owner and to conform to the Emerald Bay development standards (usually the height standard), the site must be excavated resulting in high retaining walls. Additionally, a Variance to the County setback standards is requested, also based on the Emerald Bay development requirements. For this proposal, the applicant is requesting a Use Permit for the retaining wall system to reach a maximum height of up to 14 feet when the Zoning Code would permit a wall height of up to 8 feet above finished grade. Zoning Code section 7-9-137.5 “Fences and walls” permits a maximum wall height for this specific situation of 8 feet. The request for over height retaining walls to lower the building pad elevation is a common practice in Emerald Bay. Prior to any approval of this request for an over height wall, the Zoning Administrator must make the following two findings:

The height and location of the fence or wall as proposed will not result in or create a traffic hazard.

The location, size, design and other characteristics of the fence or wall will not create conditions or situations that may be objection-able, detrimental or incompatible with other permitted uses in the vicinity.

Front and rear yard Variance requests are also very common. The CC&Rs for Emerald Bay has a setback requirement of five (5) feet from front, rear and side property lines. The subject site is classified as a shallow building site and as such the front and rear setbacks for this site is 8 feet. The applicant is requesting a variance to this setback requirement to permit a front and rear setback of at a minimum 5 feet – 6 inches. This only occurs at just a small portion of the proposed dwelling, the bulk of the structure conforms to the 8 feet setback standard. The request for front and rear setback variances is a common

practice in Emerald Bay. Prior to any approval of this request for variance, the Zoning Administrator must make the following two findings:

There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.

Approval of the application will not constitute a grant of special privileges, which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

The proposal includes a garage that provides for two parking spaces. The driveways provide a length of 18 feet from the back of garage door to the edge of street. However, Subdivision and Grading Services/Traffic Review noted the garage has two garage doors are not parallel to each other and are setback different distances for the street. This causes a situation in which with one car parked in the driveway, access to the other side of the garage is blocked, and therefore does not conform to the residential off-street parking standards of Zoning Code Section 7-9-145. After discussing this issue with the applicant and Traffic Review staff, it was determined that by modifying the width of the driveway at the street and in front of the garage; the garage as proposed would conform to the County parking standards for such use. A Condition of Approval addressing the driveway is included in Appendix B.

CONCLUSION:

The request for over height walls in the side and rear yards and setback variances for the front and rear yard is typical for new home construction throughout Emerald Bay. The front and rear setbacks are typical for these small lots in this section of Emerald Bay. The dwelling proposed conforms in size and styling to other homes in the vicinity. The proposal has been given approval by the Emerald Bay Community Association. Staff supports the proposal and is of the opinion that the Zoning Administrator is able to make the finding required for the proposed over height and front and rear yard setback variances. Staff recommends project approval as follows.

RECOMMENDED ACTION:

PDS/Current and Advance Planning Services recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA04-0020 for Coastal Development Permit, Variance and Use Permit subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Chief
CAPS/Site Planning Section

WVM

Folder: My Documents/Emerald Bay/PA04-0020 Staff 5-6 Tooma

APPENDICES:

- A. Recommended Findings
- B. Recommended Conditions of Approval

EXHIBITS:

- 1. Applicant's Letter of Explanation
- 2. Site Photos
- 3. Environmental Documentation
- 4. Site Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the RDMD/Planning and Development Services.

In addition, this project is within the Coastal Zone and is an "appealable development". Approval of an appealable development may be appealed directly to the California Coastal Commission (telephone number 562-560-5071), in compliance with their regulations, without exhausting the County's appeal procedures.